

REMARKS

The office action of September 10, 2009, has been carefully considered.

It is noted that claims 1-10 are objected to for containing various informalities.

Claims 1 and 5-10 are rejected under 35 U.S.C. 102(e) over the patent application of Darras et al.

Claims 2-4 are rejected under 35 U.S.C. 103(a) over Darras et al. in view of the patent to Namamachi.

In view of the Examiner's rejections of the claims, applicant has canceled claims 6 and 9, and amended claim 1.

Applicant has amended claim 1 to correct the informalities pointed out by the Examiner. Thus, it is respectfully submitted that the objection to claims 1-10 is overcome and should be withdrawn.

It is respectfully submitted that the claims presently on

file differ essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the references.

According to Darras, a barrier layer containing carbon is arranged on the plastic material of the bottle-shaped container. The plastic material of the container has a high content of carbon so that a good adhesion of the barrier layer to the plastic substrate results from the individual materials. However, such a barrier layer with proportions of carbon has a brown color so that the barrier layer is not suitable for many applications.

The barrier layer of the presently claimed invention, on the other hand, is made of  $\text{SiO}_x$  and is thus transparent and colorless. Also, in the present invention the barrier layer is applied with an adhesion promoter. This is not disclosed by Darras.

Compared with a conventional use of a barrier layer to prevent an inward diffusion of gases or an escape of gases out of the filled liquid, in the present invention a large surfaced and secure adhesion of the barrier layer on the substrate is present. A local loosening of the barrier layer would not only reduce the storage time of the filled product, but also makes possible a transfer of dangerous substances from the material of the

container into the liquid in the container. Thus, the layer of the present invention made out of SiO<sub>x</sub> can only be used with the adhesion promoter to provide the intended result of the present invention.

Although Darras does teach in paragraph [0024] a barrier layer that prevents a migration of acetaldehyde or other substances from the polymer into the liquid, there is no disclosure of the further inventive step of using a polymer that has constituents that are transferable to the liquid in the container, which constituents are in a quantity that is greater than permissible for packaging the product. This is an important aspect because only with the invention is it possible to use inexpensive materials for packing products, which materials would not normally be useable.

Darras does not disclose using a material that, without the inventive barrier layer, would not be suitable for packaging a product.

Pursuant to the invention it is possible to use a plastic material for the container that would not normally be suitable for storing the beverages due to the constituents contained in the

wall of the container. Due to the inventive surface coating/barrier layer the transfer of harmful materials out of the plastic material into the packaged beverage is prevented.

In view of these considerations it is respectfully submitted that the rejection of claims 1 and 5-10 under 35 U.S.C. 102(e) over the above-discussed reference is overcome and should be withdrawn.

The patent to Namamachi et al. has also been considered. This reference adds nothing to the teachings of Darras et al. so as to suggest the presently claimed invention. Thus, it is respectfully submitted that the rejection of claims 2-4 under 35 U.S.C. 103(a) is overcome and should be withdrawn.

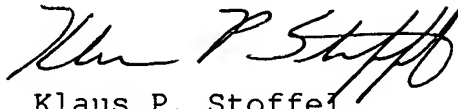
Reconsideration and allowance of the present application are respectfully requested.

Any additional fees or charges required at this time in connection with this application may be charged to Patent and Trademark Office Deposit Account No. 11-1835.

**HKH-15**

Respectfully submitted,

By



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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450, on January 11, 2010.

By:

  
Klaus P. Stoffel

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